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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,855	02/23/2004	James H. Keithly	006943.00608	9428

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EXAMINER
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NGUYEN, TRINH T

ART UNIT	PAPER NUMBER
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3644

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08/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



**DETAILED ACTION**

1. In response to Applicant's Amendment dated 5/30/08, it is noted that a restriction requirement (as followed below) is necessitated due to the recognized divergent subject matter.

***Election/Restrictions***

2. This application contains claims directed to the following patentably distinct species:

(1) Within each of the process for enhancing commercial poultry breeder operations, there are a plurality of patentably distinct species, please elect from one of these distinct Species:

Species 1: the process for enhancing commercial poultry breeder operations wherein the process comprises a citrus byproduct generated by expressing citrus juice from citrus fruit and a concentration of not more than about 1.6 weight percent as directed to claim 20.

Species 2: the process for enhancing commercial poultry breeder operations wherein the process comprises a citrus byproduct generated by expressing citrus juice from citrus fruit and a combination of byproduct components and a concentration of not more than about 2 weight percent as directed to claim 38.

(2) Within each of the citrus feed supplement, there are a plurality of patentably distinct species, please elect from one of these distinct Species:

Species A: the citrus feed supplement comprises particles of dried citrus byproduct flake as directed to claims 25 and 47.

Species B: the citrus feed supplement comprises particles of palletized dried citrus byproduct as directed to claims 26 and 48.

(3) Within each of the method of providing the citrus feed supplement places the citrus byproduct into the poultry feed diet, there are a plurality of patentably distinct species, please elect from one of these distinct Species:

Species I: the method of providing the citrus feed supplement places the citrus byproduct into the poultry feed diet without purifying the citrus byproduct as directed to claims 32 and 52.

Species II: the method of providing the citrus feed supplement places the citrus byproduct into the poultry feed diet without extracting the citrus byproduct as directed to claims 33 and 53.

3. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, it appears that there is no generic claim.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

Art Unit: 3644

currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T. Nguyen whose telephone number is (571) 272-6906. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on (571) 272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trinh T Nguyen/  
Primary Examiner, Art Unit 3644  
8/15/08